



THE ATTORNEY GENERAL OF TEXAS

AUSTIN, TEXAS 78711

JOHN L. HILL
ATTORNEY GENERAL

November 29, 1974

The Honorable Joe Resweber
County Attorney
Harris County Courthouse
Houston, Texas 77002

Opinion No. H- 460

Re: Inclusion of minors'
trust funds invested in
savings institutions pur-
suant to court order in
the annual independent
audit of county funds.

Dear Mr. Resweber:

You have requested an opinion as to whether minors' trust funds which have been invested in various savings institutions pursuant to district court orders under Article 1994, V. T. C. S., should be included in the annual independent audit of county funds which is conducted pursuant to Article 164ld, V. T. C. S. We answer your question affirmatively.

The funds in question are those received upon collection of a judgment in favor of a minor represented in district court by a "next friend." These funds are placed in the Registry of the Court account which is kept pursuant to Article 2558a, V. T. C. S. After the initial deposit of the funds in this account, the judge often orders the funds to be invested pursuant to Article 1994, V. T. C. S.:

Minors, lunatics, idiots or non compos mentis persons who have no legal guardian may sue and be represented by 'next friend' under the following rules:

. . .

2. The judge of the court in which the judgment is rendered upon an application and hearing, in termtime or vacation, may provide by decree for an investment of the funds accruing under such judgment. Such decree, if made in vacation, shall be recorded in the minutes of the succeeding term of the court.

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The records of the judgment, the initial deposit and the subsequent investment should be kept by the District Clerk as provided under Articles 1899, 2558a and 1994, V. T. C. S.

The records described above are included within the scope of the audit requirement established by section 1 of Article 164ld, V. T. C. S.

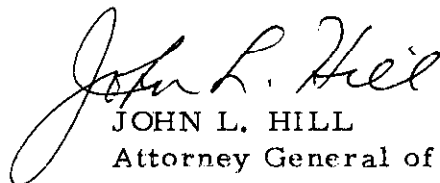
In every county in the State of Texas having a population of 350,000 inhabitants or more, according to the last preceding Federal Census, an annual independent audit shall be made of all books, records, and accounts of the district, county, and precinct officers, agents or employees, including regular auditors of the counties and all governmental units of the county hospitals, farms, and other institutions of the county, and all matters pertaining to the fiscal affairs of the county.

Since the District Clerk is a county officer under Article 3912d, V. T. C. S., his books, records and accounts are subject to the auditing requirement of Article 164ld, V. T. C. S. See also Attorney General Opinion WW-763 (1960). Thus the minors' trust funds which are represented in the records of the District Clerk must be audited to verify the accuracy of the records.

S U M M A R Y

Minors' trust funds which have been invested pursuant to district court orders under Article 1994, V. T. C. S., should be included in the annual independent audit of county funds conducted under Article 164ld, V. T. C. S.

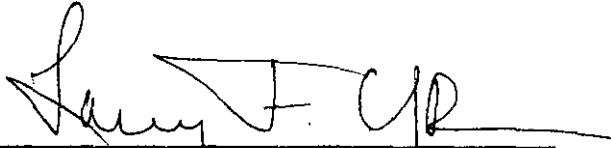
Very truly yours,

A handwritten signature in cursive script, reading "John L. Hill".

JOHN L. HILL
Attorney General of Texas

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APPROVED:

A handwritten signature in dark ink, appearing to read "Larry F. York", written over a horizontal line.

LARRY F. YORK, First Assistant

A handwritten signature in dark ink, appearing to read "David M. Kendall", written over a horizontal line.

DAVID M. KENDALL, Chairman
Opinion Committee